

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**THE CITY OF NEWPORT BEACH**  
**AND**  
**THE NEWPORT BEACH**  
**EMPLOYEES LEAGUE**



**July 1, 2010 through June 30, 2012**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
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MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF NEWPORT BEACH  
AND  
NEWPORT BEACH EMPLOYEES LEAGUE

This MEMORANDUM OF UNDERSTANDING (hereinafter referred to as "MOU") is entered into with reference to the following:

**PREAMBLE**

1. The NEWPORT BEACH EMPLOYEES LEAGUE ("NBEL"), a recognized employee organization, and the City of Newport Beach ("City"), a municipal corporation and charter city, have been meeting and conferring, in good faith, with respect to wages, hours, fringe benefits and other terms and conditions of employment.
2. NBEL representatives and City representatives have reached agreement as to wages, hours and other terms and conditions of *employment for the period from July 1, 2010 through June 30, 2012* and this agreement has been embodied in this MOU.
3. This MOU, upon approval by NBEL and the Newport Beach City Council, represents the total and complete understanding and agreement between the parties regarding all matters within the scope of representation.

**SECTION 1. – General Provisions**

A. Recognition

City hereby confirms its prior certification of NBEL as the recognized employee organization for the employees in the Construction and Maintenance Unit, and agrees to meet and confer and otherwise deal exclusively with NBEL on all matters within the scope of representative pertaining to said employees as authorized by law.

B. Duration of Memorandum

1. Except as specifically provided otherwise, any ordinance, resolution or action of the City Council necessary to implement this MOU shall be considered effective as of July 1, 2010. This MOU shall remain in full force and effect until June 30, 2012, and the provisions of this MOU shall continue after the date of expiration of this MOU in the event the parties are meeting and conferring on a successor MOU.

2. The terms and conditions of this MOU shall prevail over conflicting provisions of the Newport Beach City Charter, the ordinances, resolutions and policies of the City of Newport Beach, and federal and state statutes, rules and regulations which either specifically provide that agreements such as this prevail, confer rights which may be waived by any collective bargaining agreement, or are, pursuant to decisional or statutory law, superseded by the provisions of an agreement similar to this MOU.

C. Release Time

1. Three NBEL officers designated by the NBEL shall collectively be granted 120 hours paid release time maximum, annually, for the conduct of NBEL business. Such time shall be exclusive of actual time spent in collective bargaining and shall be scheduled at the discretion of the NBEL officer. Every effort will be made to schedule this time to avoid interference with City operations.
2. Release time designees shall be identified annually and notice shall be provided to the City. Release time incurred shall be reported regularly in the form and manner prescribed by the City.
3. Activities performed on release time shall include representation of members in rights disputes; preparation for collective bargaining activities, and distribution of NBEL written communication in the work place.

D. Employee Data and Access

The NBEL will be provided on a regular basis with a listing of all unit members. The listing will include name, department, and job title. Information concerning the NBEL prepared by the NBEL will be provided to new field employees at the time of orientation. NBEL officials shall be entitled to solicit membership from field employees who are not members or who are new City employees assigned to a field department.

E. Scope

1. All present written rules and current established practices and employees' rights, privileges and benefits that are within the scope of representation shall remain in full force and effect during the term of this MOU unless specifically amended by the provisions of this MOU.
2. The practical consequences of a Management Rights decision on wages, hours, and other terms and conditions of employment shall be subject to the grievance procedures.

3. Pursuant to this MOU, the City reserves and retains all of its inherent exclusive and non-exclusive managerial rights, powers, functions and authorities ("Management Rights") as set forth in Resolution No. 7173. Management Rights include, but are not limited to, the following:
- (a) the determination of the purposes and functions of City Departments;
  - (b) the establishment of standards of service;
  - (c) to assign work to employees as deemed appropriate;
  - (d) the direction and supervision of its employees;
  - (e) the discipline of employees;
  - (f) the power to relieve employees from duty for lack of work or other legitimate reasons;
  - (g) to maintain the efficiency of operations;
  - (h) to determine the methods, means and personnel by which operations are to be conducted;
  - (i) the right to take all necessary actions to fulfill the Department's responsibilities in the event of an emergency; and
  - (j) the exercise of complete control and discretion over the manner of organization, and the appropriate technology, best suited to the performance of departmental functions.

The practical consequences of a Management Rights decision on wages, hours, and other terms and conditions of employment shall be subject to the grievance procedures.

F. Conclusiveness

With the exception of a separate MOU covering retirement issues, this MOU contains all of the covenants, stipulations, and provisions agreed upon by the parties. Therefore, for the life of this MOU, neither party shall be compelled, and each party expressly waives its rights to request the other to meet and confer concerning any issue within the scope of representation except as expressly provided herein or by mutual agreement of the parties. No representative of either party has the authority to make, and none of the parties shall be bound by,

any statement, representation or agreement reached prior to the execution of this MOU and not set forth herein.

G. Modifications

Any agreement, alteration, understanding, variation, or waiver or modification of any of the terms or provisions of this MOU shall not be binding upon the parties unless contained in a written document executed by authorized representatives of the parties.

H. Agency Shop

1. Unit employees, by majority vote, have elected for an Agency Shop provision.
2. The Association shall comply with all statutory and legal requirements regarding agency shop, should it be approved through the election process. This will include all requisite procedures for appeals, record-keeping, establishment of the service fee amount; designating acceptable charities pursuant to Section 3502.5 of the Government Code, etc.
3. Complying with agency shop provisions shall not be a condition of employment. Enforcement shall be the responsibility of the Association; utilizing appropriate civil procedures. The City will cooperate with Association efforts to achieve enforcement.
4. The collection of Association dues and/or service fees shall continue to be handled through the payroll deduction process.
5. NBEL agree to defend, indemnify and hold harmless the City for its action pursuant to this section.

**SECTION 2. – Compensation**

A. Salary

*Effective January 1, 2012 salaries will be increased by an amount equal to the increase in the Consumer Price Index (CPI) Los Angeles/Orange County Urban Wage Earners Index for the 12 month commencing period of November 2010 with a minimum 1.5% increase and a maximum 3% increase.*

B. Overtime

1. Definitions

- (a) Miscellaneous Employee - An employee designated as a Miscellaneous member of the Public Employees Retirement System (PERS).
- (b) Overtime - Normal overtime is defined as any scheduled hours worked in excess of the basic work week. For the purposes of this section, the basic work week is 40 hours, or as determined by the Department Director and approved by the City Manager which occurs between a fixed and regularly recurring period of 168 hours - 7 consecutive 24 hour periods - beginning at 0001 on Saturday and ending at midnight the following Friday (or as otherwise designated by the City Manager).
- (c) Incidental Overtime - Incidental overtime is any extension of the basic work shift of less than 1/10 of an hour that is non-recurrent.
- (d) Hours Worked - Hours worked are defined as hours which employees are required to be performing their regular duties or other duties assigned by the City.

2. Compensation

Normal overtime for all non-exempt employees shall be paid at one-and-one-half (1-1/2) times the hourly rate of the employee's bi-weekly salary rate. Reporting of overtime on payroll forms will be as prescribed by the Administrative Services Director. Incidental overtime is not compensable.

3. Overtime Pay Calculations During Week Including Holiday(s)

For the purpose of calculating overtime, holidays and pre-scheduled vacation or flex leave occurring during the regular work week will count as time worked. The floating holiday is excluded from this provision.

C. Standby Duty

1. Defined

- (a) To be ready to respond immediately to calls for service;
- (b) To be reachable by telephone;
- (c) To remain within a specified distance from his/her work station; and



- (d) To refrain from activities which might impair the employee's ability to perform his/her assigned duties.

2. Compensation

- (a) Standby duty shall be compensated at the rate of one (1) hour of overtime compensation for each eight (8) hours of such duty. Standby duty on holidays shall be compensated at the rate of two (2) hours of overtime compensation for each (8) hours of standby duty. Should the employee be required to return to work while on standby status, the provisions pertaining to compensation for call-back pay shall apply for the actual period of time the employee is in a work status.
- (b) *Standby duty compensation for Utility employees shall continue unchanged.*

D. Call-Back Duty

1. Defined

Call-back duty requires the employee to respond to a request to return to his/her work station after the normal work shift has been completed and the employee has left his/her normal work station. Those periods of overtime which had been scheduled by the Department Director prior to the end of the normal work shift are not considered call-back duty.

2. Compensation

All personnel on call back duty eligible for overtime pay shall be guaranteed two (2) hours pay, or pay for one-and-one-half (1-1/2) times the number of hours worked, whichever is greater.

E. Accumulation of Compensatory Time Off

City employees represented by the NBEL may receive compensatory time off, in lieu of cash, as compensation for overtime hours worked. Compensatory time shall be calculated at the rate of one and one half hours for each hour of overtime worked beyond the 40 hour limit of the work week. Compensatory time is to be granted only when the employer and the employee agree that the application of "Comp Time" is a desirable substitute for the payment of cash for overtime. Call-back time may be converted to comp time with supervisor approval.

Employees may accumulate up to eighty (80) hours of Compensatory Time. Any hours in excess of eighty (80) will be paid off. Accumulation in excess of the eighty (80) hours may be approved at the discretion of the Department Director.

F. Night Shift Differential

The City agrees to pay \$1 per hour night shift differential for Employees working a regularly scheduled work shift of which four or more hours are worked between the hours of 5p.m. and 5a.m. Overtime worked as an extension of an assigned day shift shall not qualify an employee for night shift differential. The differential pay is paid only for hours actually worked.

In accordance with this provision, City agrees to pay \$.50 per hour night shift differential to automotive shop mechanics for hours worked after 5:00 p.m.

G. Differential Pay for One Man Packer

The differential pay for the operation of a one man packer shall be 18%.

H. Acting Pay

NBEL employees will be eligible to receive "acting pay" only after completing 80 consecutive hours in the higher classification. Acting pay is 107.5% of the employee's base pay rate.

Once the minimum hours requirement has been satisfied, acting pay will be granted for all hours worked above 40 hours beginning with the 41st hour worked in the higher classification.

I. Certification Pay

*Payment for State or governing body certifications will be made on a bi-weekly basis for League represented employees holding a valid and current certification in areas indicated below. Employees may submit proof of valid certificates, including renewals, by November 15<sup>th</sup> of each year. The bi-weekly payment for such eligible certificates will begin the first pay period in January of the following year.*

1. Water or Wastewater Operator -

Grade I - \$110  
Grade II - \$220  
Grade III - \$330  
Grade IV - \$440

2. Backflow Certification - \$220
3. Qualified Applicator Certificate - \$110. for each category up to a maximum of \$330.
4. Smog License - \$275
5. Fire Mechanic State Level I - \$110
6. Fire Mechanic State Level II - \$220
7. Certified Arborist - \$110
8. ASE Certification - \$55 *each* and. \$220 for possessing a current ASE Master Truck Technician and \$220 for possessing a current ASE Master Automobile Technician certification.
9. Commercial Drivers License, Class A - \$220
10. Commercial Drivers License, Class B - \$165
11. Public Works Certificates\* I and II \$200 (each).

\*18-20 Jr. College units each.

*Effective January 2011 Certificate Pay shall be modified as follows:*

1. *Employees holding valid certifications for any of the certificates listed below will be eligible for the bi-weekly payment effective the pay period beginning January 15, 2011.*
2. *The Water or Wastewater Operator Grade IV shall be increased to \$540 annually.*
3. *Water or Wastewater Operator Grade V shall be added at \$600 annually.*
4. *Cross Connection Specialist shall be added at \$110 annually.*
5. *Water Utility Science certificates will be added at \$200 annually (one certificate eligible - \$200 max).*

*The City will continue its practice of reimbursing employees for application, testing, and certification fees, who successfully complete certification examinations for the above listed certificates.*

*The City will continue its practice of reimbursing employees for required physicals when employees obtain/renew required Class A or B Drivers Licenses.*

J. Court Time

Employees who are required to appear in Court during their off-duty hours in connection with City business shall receive overtime compensation for the number of hours they spend in court, with a minimum of two (2) hours of such compensation.

**SECTION 3. - Leaves**

A. Flex Leave

1. NBEL members shall accrue Flex leave at the following rates:

<u>Years of Continuous Service</u>	<u>Hrs Accrued per Pay Period</u>	<u>Annual Days</u>	<u>Maximum Allowable Balance (hours)</u>
1 but less than 5	5.54	18	432.12
5 but less than 9	6.15	20	479.7
9 but less than 12	6.77	22	528.06
12 but less than 16	7.69	25	599.82
16 but less than 20	8.31	27	648.18
20 but less than 25	8.92	29	695.76
25 and over	9.54	31	744.12

During the first six months of employment, new full-time employees shall not accrue flex leave. At the completion of six months of employment six (6) months of flex leave will be placed in the employee's account.

Note: If an employee becomes sick in the first six months of employment, the City will advance up to six (6) months of flex leave time to be used for illnesses only. If employee terminates employment prior to six months, the City will subtract the pay equivalent of the number of paid leave days advanced from the employee's final check. Any flex leave time advanced during the first six months of employment will be subtracted from the six (6) months of accrual placed in the employees account upon completion of six months employment.

2. Limit on Accumulation

Employees may accrue flex leave up to an accumulated total equal to seventy eight times (78) the member's bi-weekly accrual rate. Any paid leave earned in excess of this level will be paid on an hour for hour basis in cash (spill over pay) at the employee's hourly rate of pay. Members hired prior to July 1, 1996 shall be paid for earned flex leave in excess of the maximum permitted accrual at the members hourly rate of pay provided that they have utilized at least eighty (80) hours of flex leave the previous calendar year. Employees who have not utilized the required amount of leave the prior calendar year shall not be eligible to accrue time above the maximum accrual limit.

Employees first hired, or rehired by the City subsequent to July 1, 1996 shall not be eligible for flex leave spill over pay and shall not be entitled to accrue flex leave in excess of the flex leave accrual threshold.

3. Method of Use

Flex leave may not be taken in excess of that actually accrued and in no case, except for illness, may it be taken prior to the completion of an employee's initial probationary period.

The Department Director shall approve all requests for flex leave taking into consideration the needs of the Department, and whenever possible the seniority and wishes of the employee. Flex leave may be granted on an hourly basis.

B. Vacation Leave

This section applies only to those Regular Full-time Employees hired on or before January 1, 1990 and who have elected not to enroll in the Flex Leave program.

1. Basis for Accrual/Full-Time Employees

Employees entitled to vacation leave-with-pay shall accrue such leave based on years of continuous service and the number of hours in a normal work week for the position to which they are assigned in accordance with the following schedule:

Years of Continuous Service	Accrual per pay period hrs
0 but less than 5	3.38

5 but less than 9	3.99
9 but less than 12	4.61
12 but less than 16	5.22
16 but less than 20	5.84
20 but less than 25	6.46
25 and over	7.07

2. Limit on Accumulation

Accrual of vacation days in excess of those earned for two years of continuous service is not permitted past December 31st of each year with the following exception: with approval of the Department Director, an employee may accrue vacation days in excess of the two-year limit provided all such excess accumulation is taken by March 31st of the following year.

3. Method of Use

Vacation may not be taken in excess of that actually accrued. The Department Director shall schedule and approve all vacation leaves for employees taking into consideration the needs of the Department, and whenever possible, the seniority and wishes of the employee. Vacation leave may be granted on an hourly basis. Any fraction over an hour shall be charged to the next full hour.

C. Sick Leave

This section applies only to those Regular Full-time Employees hired on or before January 1, 1990 and who have elected not to enroll in the Flex Leave program.

1. Basis for accrual

Full-time, regular employees shall accrue sick leave based on the number of hours in a normal work week for the position to which they are assigned in accordance with the following schedules:

Normal Work Week :40 hours

<u>Service Time</u>	<u>Monthly Accrual</u>
0-1 year	4 hours
1-2 years	5 hours
2-3 years	6 hours
3-4 years	7 hours

4+

8 hours

2. Method of Use

(a) General

Sick leave may not be taken in excess of that actually accrued.

Sick leave may be granted on an hourly basis.

(b) Approval

Sick leave may be granted only at the discretion of or with the approval of the Department Director and only for the purposes defined in Section 11.2 of the Employee Policy Manual.

3. Sick Leave Conversion

Employees who at the end of the calendar year have an accrued level of sick leave equal to or greater than the full value of 50 months of accrued sick leave, and who have used six or less days of sick leave during that calendar year will be permitted (only once per year) to convert up to six (6) days of sick leave to either salary or paid vacation at the value of 50% (maximum value of 3 days per year). Eligible sick leave days converted to cash shall be at the employee's option. Eligible sick leave days converted to paid vacation shall require the approval of the Department Director.

D. Holiday Leave

1. Subject to the provisions herein, the following days shall be observed as paid holidays by all employees in permanent positions and other except those personnel whose work assignments, in the judgment of the Department Director require their presence on the job. For each designated holiday, except the Floating Holiday, such excepted personnel shall receive an equivalent number of hours of paid flex leave or equivalent pay whichever in the judgment of the Department Director best serves the interest of the Department.

Independence Day	July 4
Labor Day	1st Monday in Sept.
Veteran's Day	November 11
Thanksgiving Day	4th Thurs. in November
Friday following Thanksgiving	
Christmas Eve	Last 1/2 of working day
Christmas	December 25

New Year's Eve	Last 1/2 of working day
New Year's Day	January 1
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Martin Luther King Day	3rd Monday in January
Floating Holiday	July 1 <sup>st</sup> - 1 day

*Pursuant to a separate agreement, for 2010 only, the ½ day Christmas Eve and ½ day New Year's Eve holidays will be combined to make one full holiday to be observed on December 30, 2010.*

Holidays listed above (except the floating holiday) occurring on a Saturday shall be observed the preceding Friday. Holidays occurring on a Sunday shall be observed the following Monday. (Half day holidays shall be observed prior to the observed holiday).

## 2. Holiday Pay Eligibility

NBEL agrees that members scheduled to work 44 hours and 36 hours during a two-week schedule will, when a holiday occurs during a work schedule, receive eight (8) hours pay for said holiday.

Following are the limitations on eligibility for Holiday Pay:

- (a) Holiday Pay will be paid only to employees who work their scheduled day before and scheduled day after a holiday, or are on authorized leave (e.g. approved vacation, or sick leave, that has been approved by the Department Director).
- (b) Newly hired employees will be eligible to receive full pay for scheduled holidays, without a waiting period.

## E. Bereavement Leave

The provisions of the Bereavement Leave Policy applicable to affected employees shall be as follows:

### 1. Defined

The necessary absence from duty by an employee having a regular or probationary appointment, because of the death or terminal illness in his/her Immediate Family. For the purposes of this section, Immediate Family shall mean father and mother (including step), brother, sister, wife, husband, child, grandparents and the Employee's spouse's father, mother, brother, sister, child and grandparents.



2. Maximum Allowed

Such leave shall be limited to five (5) working days per incident.

F. Leave Sellback

Twice annually, employees shall have the option of selling back on an hour for hour basis, accrued flex or vacation leave. In no event shall the flex or vacation leave balance be reduced below one hundred and sixty (160) hours.

**SECTION 4. – Fringe Benefits**

A. Health Insurance

1. Benefits Information Committee

City has established a Benefits Information Committee (BIC) composed of one representative from each employee association group and up to three City representatives. The Benefits Information Committee has been established to allow the City to present data regarding carrier and coverage options, the cost of those options, appropriate coverage levels and other health programs. The purpose of the BIC is to provide each employee group with information about health insurance/programs and to receive timely input from associations regarding preferred coverage options and levels of coverage.

2. Medical Insurance

The City has implemented an IRS qualified Cafeteria Plan. *The City contribution toward the Cafeteria Plan shall be \$1049.* In addition, the City shall contribute the minimum CalPERS participating employers contribution towards medical insurance. Employees shall have the option of allocating Cafeteria Plan contributions towards the City's existing medical, dental and vision insurance/programs. The City and the Newport Beach Employees League will cooperate in pursuing additional optional benefits to be available through the Cafeteria Plan.

Any unused Cafeteria Plan funds shall be payable to the employee as taxable cash back. Employees shall be allowed to change coverage in accordance with plan rules and during regular open enrollment periods.

*Effective the pay period beginning January 1, 2011, the City's contribution towards the Cafeteria Plan will increase to \$1149 (plus the minimum CalPERS participating employers contributions).*

*Effective the pay period including January 1, 2012, the City's contribution towards the Cafeteria Plan will increase to \$1249 (plus the minimum CalPERS participating employers contribution).*

NBEL members who do not want to enroll in any medical plan offered by the City must provide evidence of group medical insurance coverage, and execute an opt-out agreement releasing the City from any responsibility or liability to provide medical insurance coverage on an annual basis.

3. Dental Insurance

The existing or comparable dental plans shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee.

4. Vision Insurance

The existing or comparable vision plan shall be maintained as part of the City's health plan offerings as agreed upon by the Benefits Information Committee.

B. Additional Health Insurance/Programs

1. IRS Section 125 Flexible Spending Account

Section 125 of the Internal Revenue Code authorizes an employee to reduce taxable income for payment of allowable expenses such as child care and medical expenses. An Association member may request that medical, child care and other eligible expenses be paid or reimbursed by the Section 125 Plan out of the employee's account. The taxable salary of the employee will be reduced by the amount designated by the employee for reimbursable expenses.

2. Disability Insurance

The City shall provide disability insurance to all regular full time employees with the following provisions:

Weekly Benefit	66.67% gross weekly wages
Maximum Benefit	\$10,000/month
Minimum Benefit	\$50

Waiting Period

30 Calendar Days

Employees shall not be required to exhaust accrued paid leaves prior to receiving benefits under the disability insurance program. Employees may not supplement the disability benefit with paid leave once the waiting period has been exhausted.

Concurrent with the commencement of this program, employees assumed responsibility for the payment of the disability insurance cost in the amount of one (1%) percent of base salary. Simultaneously, the City increased base wages by one (1%) percent.

3. Life Insurance

The City shall provide life insurance for all regular full-time employees in \$1,000 increments equal to one times the employee's annual salary up to a maximum of \$50,000. At age 70 the City-paid life insurance is reduced by 50% of the pre-70 amount. This amount remains in effect until the employee terminates from City employment.

C. Employee Assistance Program

City shall provide an Employee Assistance Program (EAP) through a properly licensed provider. Association members and their family members may access the EAP subject to provider guidelines.

D. The Retirement Benefit

1. Existing Benefits

The City contracts with PERS to provide retirement benefits for its employees. *For employees in the current retirement tier, the retirement formula is the 2.5% @ 55, calculated on the basis of the best/highest year with the City reporting the value of the Employer Paid Member Contribution (EPMC). In addition, the City contracts for the 4<sup>th</sup> Level 1959 Survivor Insurance Benefit, \$500 Lump Sum Death Benefit, Sick Leave Credit, Military Service Credit, 2% Cost of Living Adjustment and the Pre-Retirement Option 2 Death Benefit (Section 21548). Current retirement tier employees will pay an increased contribution toward the Member Contribution as follows: 1.5% January 1, 2011, 1.5% July 2, 2011, 1.58% the pay period that includes January 1, 2012.*

2. *The City will implement the 2% @ 60 retirement program with the average of the 36 highest paid consecutive months for newly hired employees*

*upon the conclusion of negotiations with all affected employee organizations. In addition these employees will pay the full 7% Member Contribution for the entire term of their employment.*

3. Separate Agreement

*In addition to the amounts set forth in D.1 above, pursuant to a separate agreement unit members in the current retirement tier will continue to pay 3.42% toward the employee contribution (representing the entire 8% employee statutory contribution).*

E. Retiree Medical Benefit

1. Background

In 2005, the City and all Employee Associations agreed to replace the previous "defined benefit" retiree medical program with a new "defined contribution" program. The process of fully converting to the new program will be ongoing for an extended period. During the transition, employees and (then) existing retirees have been administratively classified into one of four categories. The benefit is structured differently for each of the categories. The categories are as follows:

- a. Category 1 - Employees newly hired after January 1, 2006.
- b. Category 2 - Active employees hired prior to January 1, 2006, whose age plus years of service as of January 1, 2006 was less than 50 (46 for public safety employees).
- c. Category 3 - Active employees hired prior to January 1, 2006, whose age plus years of service was 50 or greater (46 for public safety employees) as of January 1, 2006.
- d. Category 4 - Employees who had already retired from the City prior to January 1, 2006, and were participating in the previous retiree medical program.

2. Program Structure

This is an Integral Part Trust (IPT) Medical Expense Reimbursement Program Plan (MERP).

a. For employees in Category 1, the program is structured as follows:

Each employee will have an individual MERP account for bookkeeping purposes, called his or her "Employee Account." This account will

accumulate contributions to be used for health care expense after separation. All contributions to the plan are either mandatory employee contributions or City paid employer contributions, so they are not taxable to employees at the time of deposit. Earnings from investment of funds in the account are not taxable when posted to the account. Benefit payments are not taxable when withdrawn, because the plan requires that all distributions be spent for specified health care purposes.

Contributions will be in three parts.

Part A contributions (mandatory employee contributions): 1% of Salary.

Part B contributions (employer contributions): \$1.50 per month for each year of service plus year of age (updated every January 1<sup>st</sup> based on status as of December 31<sup>st</sup> of the prior year). Effective January 2008, this contribution will increase to \$2.50 per month.

Part C contributions (leave settlement as determined by Association):

The Association will determine the level of contribution for all employees it represents, subject to the following constraints. All employees within the Association must participate at the same level, except that Safety members and Non-safety members within an Association may have different levels. The participation level should be specified as a percentage of the leave balance on hand in each employee's leave bank at the time of separation from the City.

For example, if the Association wishes to specify 50% of the leave balance as the participation level, then each member leaving the City, or cashing out leave at any other time, would have the cash equivalent of 50% of the amount that is cashed out added to the MERP, on a pre-tax basis. The remaining 50% would be paid in cash as taxable income. Individual employees would not have the option to deviate from this breakout.

The Association has decided to participate in Part C contributions at the level of zero percent (0%) *Flex/Vacation/Comp* and 0% Sick Leave. This amount may be changed, on a go forward basis, as part of a future meet and confer process. However, the participation level must be the same for all employees within the Association. Additionally, the purpose and focus of these changes should be toward long-term, trend type adjustments. Due to IRS restrictions regarding "constructive receipt," the City will impose restrictions against frequent spikes or drops that appear to be tailored toward satisfying the desires of a group of imminent retirees.

Spillover pay is not eligible for Part C contributions.

Nothing in this section restricts taking leave for time off purposes.

Sick leave balances may also be included in the MERP Part C contributions, but only to the extent and within all the numeric parameters specified in the Employee Policy Manual. Section 11.21 of the Manual contains a schedule, which specifies the amount of sick leave that can be "cashed out," based on time of service. The manual also caps the number of hours that can be "cashed out" at 800, and specifies that sick leave hours are "cashed out" on a 2 for 1 basis (800 hours of sick leave are converted to 400 hours for cash purposes). Sick leave participation is a separate item from vacation/flex leave participation, and thresholds must be separately identified by the Association.

Part A contributions may be included in PERS compensation. Part B and Part C contributions will not be included in PERS compensation.

Part A contributions begin upon enrollment in the program and are credited to each MERP Employee Account each pay period. Eligibility for Part B contributions is set at five years of vested City employment. At that time, the City will credit the first five years worth of Part B contributions into the Employee Account (interest does not accrue during that period). Thereafter, contributions are made bi-weekly. Part C deposits, if any, will be made at the time of employment separation.

Each Employee has a right to reimbursement of medical expenses (as defined below) from the Plan until the Employee Account balance is zero. This right is triggered upon separation. If an employee leaves the City prior to five years employment, only the Part A contributions and Part C leave settlement contributions, if any, will be in the MERP Employee Account. Such an employee will not be entitled to any Part B contributions. The exception to this is a full-time employee, participating in the program, who leaves the City due to industrial disability during the first five years of employment. In such cases, the employee will receive exactly five years worth of Part B contributions, using the employee's age and compensation at the time of separation for calculation purposes. This amount will be deposited into the employee's MERP account at the time of separation.

Distributions from MERP Employee Accounts are restricted to use for health insurance and medical care expenses after separation, as defined by the Internal Revenue Code Section 213(d) (as explained in IRS Publication 502), and specified in the Plan Document. In accordance with current IRS regulations and practices, this generally includes premiums for medical insurance, dental insurance, vision insurance, supplemental medical insurance, long term care insurance, and miscellaneous medical expenses

not covered by insurance for the employee and his or her spouse and legal dependents – again only as permitted by IRS Publication 502. Qualification for dependency status will be determined by guidelines in IRC 152. If used for these purposes, distributions from the MERP accounts will not be taxable. Cash withdrawal for any other purpose is prohibited. Under recent IRS Revenue Ruling 2005-24, any balance remaining in the Employee Account after the death of the employee and his or her spouse and/or other authorized dependents (if any) must be forfeited. That particular MERP Employee Account will be closed, and any remaining funds will become general assets of the plan.

The parties agree that the City's Part B contributions during active employment constitute the minimum CalPERS participating employer's contribution towards medical insurance after retirement. The parties also agree that, for retirees selecting a CalPERS medical plan, or any other plan with a similar employer contribution requirement, the required City contribution will be withdrawn from the retiree's MERP account.

b. For employees in Category 2, the program is the same as for those in Category 1, with the following exception:

In addition to the new plan contributions listed above, current employees who fully convert to the new plan will also receive a one-time City contribution to their individual MERP accounts that equates to \$100 per month for every month they contributed to the previous "defined benefit" plan, to a maximum of 15 years (180 months). This contribution will be made only if the employee retires from the City and at the time of retirement. No interest will be earned in the interim.

Employees in Category 2 who had less than five years service with the City prior to implementation of the new program will only receive Part B contributions back to January 1, 2006 when they reach five years total service.

c. For employees in Category 3, the program is the same as for those in Category 2, with the following exception:

For employees in this category, the City will make no Part B contributions while the employees are still in the active work force. Instead, the City will contribute \$400 per month into each of their MERP accounts after they retire from the City, to continue as long as the employee or spouse is still living.

Each employee will contribute a flat \$100 per month to the plan for the duration of their employment to partially offset part of this expense to the

City. The maximum benefit provided by the City after retirement is \$4,800 per year, accruing at the rate of \$400 per month. There is no cash out option for these funds, and they may not be spent in advance of receipt.

Employees in this category will also receive an additional one-time City contribution of \$75 per month for every month they contributed to the previous plan prior to January 1, 2006, up to a maximum of 15 years (180 months). This contribution will be made to the MERP account at the time of retirement, and only if the employee retires from the City. No interest will be earned in the interim.

d. For employees (retirees) in Category 4, the structure is very similar to the previous retiree medical program, except that there is no cost share requirement, and the \$400 City contribution after retirement can be used for any IRS authorized purpose, not just City insurance premiums.

Effective July 1, 2006, a MERP account has been opened for each retiree in this category, and the City will contribute \$400 per month to each account as long as the retiree or spouse remains living.

### 3. Administration

Vendors have been selected by the City to administer the program. The contract expense for program-wide administration by the vendor will be paid by the City. However, specific vendor charges for individual account transactions that vary according to the investment actions taken by each employee, such as fees or commissions for trades, will be paid by each employee.

The City's Deferred Compensation Committee, or its successor committee, will have the authority to determine investment options that will be available through the plan.

### 4. Value of Benefit

For all purposes, including compensation comparisons, the Retiree Medical Program shall be valued at 1% of salary on which PERS retirement is based (Part A); plus .25% of other compensation (Part B).

## F. Tuition Reimbursement

NBEL members attending accredited community colleges, colleges, trade schools or universities may apply for reimbursement of one hundred percent (100%) of the actual cost of tuition, books, fees or other student expenses for approved job-related courses. Maximum tuition reimbursement for employees shall be \$1,400 per fiscal year. Reimbursement is contingent upon the



successful completion of the course. Successful completion means a grade of "C" or better for undergraduate courses and a grade of "B" or better for graduate courses.

All claims for tuition reimbursement require the approval of the Administrative Services Director.

## **SECTION 5. Miscellaneous/Working Conditions**

### **A. Reductions in Force/Layoffs**

The provisions of this section shall apply when the City Manager determines that a reduction in the work force is warranted because of actual or anticipated reductions in revenue, reorganization of the work force, a reduction in municipal services, a reduction in the demand for service or other reasons unrelated to the performance of duties by any specific employee. Reductions in force are to be accomplished, to the extent feasible, on the basis of seniority within a particular Classification or Series and this Section should be interpreted accordingly.

### **DEFINITIONS**

1. "Layoffs" or "Laid Off" shall mean the non-disciplinary termination or employment.
2. "Seniority" shall mean the time an employee has worked in a Classification or Series calculated from the date on which the employee was first granted permanent status in the current Classification or any Classification within the Series, subject to the following:
  - (a) Credit shall be given only for continuous service subsequent to the most recent appointment to permanent status in the Classification or Series; and
  - (b) Seniority shall include time spent on industrial leave, military leave, and leave of absence without pay, but shall not include time spent on any other authorized or unauthorized leave of absence.
3. "Classification" shall mean one or more full time positions identical or similar in duties not including part-time, seasonal or temporary positions. Classifications within a Series shall be ranked according to pay (lowest ranking, lowest pay).
4. "Series" shall mean two or more classifications within a Department which require the performance of similar duties with the higher ranking classification(s) characterized by the need for less supervision by

superiors, more difficult assignments and more supervisory responsibilities for subordinates. The City Manager shall determine those classifications following a meet and consult process which constitute a Series.

5. "Bumping Rights", "Bumping" or "Bump" shall mean (1) the right of an employee, based upon seniority within a series to bump into a lower ranking classification within the same series, (2) to be followed by, an employee being permitted to bump into a classification within a different series. The latter bumping shall be based upon unit wide seniority and shall be limited to a classification in which the employee previously held regular status.

No employee shall have the right to bump into a classification for which the employee does not possess the minimum qualifications such as specialized education, training or experience.

#### PROCEDURE

The General Services Department will select employees for layoff by straight seniority department wide. This means department management has total control of position elimination and personnel reassignment within ranks, but the layoffs shall be on a straight forward "last hired-first fired" basis.

The layoff system for the Utilities Department shall operate the same department-wide seniority as does the General Services Department, with the exception of the Electrical and Telecommunications sections. Because of the highly specialized skills and training of the personnel in these sections, these sections shall be treated as unique and individual unto themselves.

In the event the City Manager determines to reduce the number of employees within a classification, the following procedures are applicable:

1. Temporary and probationary employees within any classification shall, in that order, be laid off before permanent employees.
2. Employees within a classification shall be laid off in inverse order of seniority.
3. An employee subject to layoff in one classification shall have the right to bump a less senior employee in a lower ranking classification within a series. An employee who has bumping rights shall notify the Department Director within three (3) working days after notice of layoff of his/her intention to exercise bumping rights.

4. In the event two or more employees in the same classification are subject to layoff and have the same seniority, the employees shall be laid off following the Department Director's consideration of established performance evaluations.

### REEMPLOYMENT

Permanent and probationary employees who are laid off shall be placed on a Department re-employment list in reverse order of layoff. The re-employment list shall expire in 18 months. In the event a vacant position occurs in the classification which the employee occupied at the time of layoff, or a lower ranking classification within a series, the employee at the top of the Department re-employment list shall have the right within seven (7) days of written notice of appointment. Notice shall be deemed given when personally delivered to the employee or deposited in the U.S. Mail, first class postage prepaid, and addressed to the employee at his or her last known address. Any employee shall have the right to refuse to be placed on the re-employment list or the right to remove his or her name from the re-employment list by sending written confirmation to the Human Resources Director.

### SEVERANCE

If an employee is laid off from their job with the City, for economic reasons, the City will grant severance pay in an amount equal to one week of pay for every full year of continuous employment service to the City of Newport Beach up to ten (10) weeks of pay.

### NOTICE

Employees subject to lay-off shall be given at least thirty (30) days advance notice of the layoff or thirty(30) days pay in lieu of notice. In addition, employees laid off will be paid for all accumulated paid leave, holiday leave, (if any), and accumulated sick leave to the extent permitted by the Personnel Resolution.

#### B. Non-Discrimination

City and NBEL agree that there will be no discrimination by either party or by any of their agents against any employee because of his/her membership or non-membership in NBEL, or because of his/her race, creed, color, national origin, religious belief, political affiliation, sex, sexual orientation or age.

#### C. Promotional Preference

Where no less than two (2) unit members achieve top three ranking on a certified eligible list, selection to the position shall be made with preference given to the

unit members so qualified. The Human Resources Department shall be responsible for insuring that a position vacancy announcement for all available City positions be distributed in a manner that reasonably assures unit members access to the announcements. The Human Resources Department shall oversee all testing procedures.

Any employee who has achieved "regular status" may request assignment to any lateral or lower classification, and that employee may be transferred into that classification without competitive testing if both of the following conditions have been satisfied:

1. The employee meets the minimum qualifications of the classification; and,
2. The Department Director approves of the transfer.

D. 9/80 Scheduling Plan

The City agrees to maintain flex-scheduling where it is currently in place in the *Municipal Operations Department*. The Building Maintenance, Parks Maintenance, and Beach Maintenance crews will be placed on the 5/40 schedule including the Memorial Day and Labor Day weekends, or any portion of time between these Holidays at the discretion of the General Services Director. The City reserves the right to amend the program as needed to mitigate any operational problems which may arise due to budgetary cutbacks, personnel cuts or shortages, service level complaints, or any other operational reason. Should an operational problem involving service reductions or increases in cost materialize, the Department Director will notify the Association and the employees affected work group of the problem in writing, supported with cause. The Association and/or the employees of the affected work group, will in turn have up to ten (10) working days to respond and schedule a meeting with the Department Director. The purpose of the meeting is to propose a solution to the problem. The Department Director will consider the proposed solution and respond, in writing, within five (5) working days. If the Department Director and the work group disagree on the solution, the Association and/or employees of the affected work group will have up to five (5) working days to appeal the Department Director's decision to the City Manager, who will consider both sides of the issue and resolve the dispute, in a written decision within ten (10) days after the aforementioned meeting.

*Effective the pay period beginning January 15, 2011, the 9/80 flex-schedule will be modified as follows: employees will have the option of alternating Fridays off only. Employees currently on a 9/80 schedule with alternating Mondays or any other day off, will convert to Fridays off beginning in January 2011. To ensure effective coverage, employees on the 9/80 schedule will be divided into groups A or B, with equal numbers of staff as much as possible, including management*

*and supervisory staff, off on alternating Fridays. To ensure ongoing compliance with Fair Labor Standards Act, and to maintain organizational efficiency, deviations from established flex days, if legally permitted, will be considered on a case-by-case basis.*

E. Labor Management Committee

Committees shall meet on an as needed basis; names of participating unit members shall be announced to management no less than 5 work days before the scheduled meeting; cancellation for cause shall be rendered by the canceling party no less than 48 hours prior to the scheduled meeting; canceled meetings shall be rescheduled to take place within 5 working days of the canceled meeting; committees shall be departmental; they may be combined in the interests of efficiency with other such committees; City participants shall include appropriate department or division heads outside the unit; the purpose of the committees shall be to resolve conflict and exchange information; a unit staff person may attend meetings; meetings shall be scheduled to last no less than one hour; grievances in process shall not be subject to resolution in meetings; matters properly dealt with in negotiations may be discussed but no agreements shall be effected on same in committee. Meetings shall be on work time.

F. Discipline - Notice of Intent

1. Employees who are to be the subject of substantial punitive discipline for any misconduct or negligence shall be entitled to prior written notice of intent to discipline at least seven (7) calendar days prior to the imposition of the actual penalty. This written notice shall contain a description of the event or conduct which justifies the imposition of discipline. The notice shall also include the specific form of a discipline intended, and the employee shall be offered the opportunity to a hearing before their Department Director prior to the imposition of the penalty.

This procedure will only be applied in cases of substantial punitive discipline. It shall be understood that a disciplinary penalty equal to an unpaid suspension of three (3) days or greater shall be substantial. All other discipline resulting in less than a three (3) day suspension will be considered non-substantial and will not be subject to the aforementioned procedure.

This understanding is not intended to in any way reduce the rights of employees to due process. Employees who have become the subject to discipline and who believe that the penalty is not justified shall have access to the grievance process as established in the Employee-Employer Resolution 2001-50.

G. Grievance Procedure

Step 1: A grievance may be filed by any employee on his/her own behalf, or jointly by a group of employees, or by a Recognized Employee Organization.

Within ten (10) calendar days of the event giving rise to a grievance, the grievant shall present the grievance in writing to the immediate supervisor. Grievances not presented within the time period shall be considered resolved.

The supervisor shall meet with the grievant to settle grievance and give a written answer to the grievant within seven (7) calendar days from receipt of the grievance by the supervisor. When the immediate supervisor is also the department head the grievance shall be presented in Step 2.

Step 2: If the grievance is not resolved in Step 1, the grievant may, within fourteen (14) calendar days from his/her receipt of the supervisor's answer, forward the grievance to the department head for consideration. Answer to the grievance shall be made in writing by the department head, after conferring with the grievant, within fourteen (14) calendar days from receipt of the grievance.

Step 3: If the grievance is not resolved in Step 2, appeal to Step 3 may be made by the grievant within ten (10) calendar days from the receipt of the department heads answer, through the representative of his/her Recognized Employee Organization who may request a meeting with the City Representative to resolve the grievance. Following the meeting, answer shall be made by the City Representative, in writing, to the representative within twenty-one (21) calendar days.

Step 4: Mediation - If the grievance is not resolved after Step 3, as an alternative to proceeding directly to Step 5, the grievance may be submitted to mediation. A request for mediation may be presented in writing to the Human Resources Director within seven (7) calendar days from the date a decision was rendered at Step 3. As soon as practicable thereafter, or as otherwise agreed to by the parties, a mediator shall hear the grievance. A request for mediation will automatically suspend the normal processing of a grievance until the mediation process is completed. The mediation process shall be optional, and any opinion expressed by the mediator shall be informal and shall be considered advisory.

Step 5: Within 20 calendar days of receipt of a grievance denial at step three, the grievant may file the grievance, in writing, with the Civil Service Board.

At the next regularly scheduled meeting of the Civil Service Board, the grievance shall be heard, using Civil Service Board De Novo procedures. Within 20 calendar days of the hearing, the Civil Service Board shall issue its findings and conclusions to the parties at interest.

Within 7 calendar days of the issuance of Civil Service Board findings and conclusions, the City Manager shall affirm, modify or revoke the Boards decision. The City Manager's decision shall be considered exhaustive of administrative remedies.

Additionally, the City and NBEL agree to expand the grievance procedure as it relates to performance evaluations and written reprimands, permitting them to be appealed to the 5th step of the grievance procedure.

#### H. Probationary Period

Newly hired employees shall serve a twelve (12) month probationary period. The probationary period for promoted employees shall be six (6) months.

Newly hired employees shall become eligible for their first step increase after twelve (12) months. All other City rules regarding step increases shall remain unchanged.

#### I. Failure of Probation

##### 1. New Probation

An employee on new probation may be released at the sole discretion of the City at any time without right of appeal or hearing, except as provided in Subsection 3, below.

##### 2. Promotional Probation

- (a) An employee on promotional probation may be failed at any time without right of appeal or hearing, except as provided in Subsection 3, below, and except that failing an employee on promotional probation must not be arbitrary, capricious or unreasonable.
- (b) An employee who fails promotional probation shall receive a performance evaluation stating the reason for failure of promotional probation.
- (c) When an employee fails his or her promotional probation, the employee shall have the right to return to his or her former class provided the employee was not in the previous class for the purpose of training for a promotion to a higher class. When an employee is returned to his or her former class, the employee shall serve the remainder of any uncompleted probationary period in the former class.

- (d) If the employee's former class has been deleted or abolished, the employee shall have the right to return to a class in his or her former occupational series closest to, but no higher than, the salary range of the class which the employee occupied immediately prior to promotion and shall serve the remainder of any probationary period not completed in the former class.

3. Probationary Release

An employee who alleges that his or her probationary release was based on discrimination by the City, may submit a grievance within ten (10) days after receipt of the Notice of Failure of Probation.

- J. Accident Reporting

The City will require that all traffic collisions involving City vehicles shall be reviewed by the traffic division supervisor of the Newport Beach Police Department to prevent any unnecessary reports from being forwarded to the DMV. Also, the vehicle accident review board will evaluate the supervisor's field report prior to making its preventable/non-preventable determination.

- K. Injury Prevention Program (IPP)

Until such time as the Injury Prevention Program (IPP) is fully developed the following understandings apply:

1. The City will indemnify and hold harmless from civil and criminal prosecution NBEL members for any liability which might arise out of the City's IPP (mandated by SB198). Once the program has been fully developed and implemented, the IPP will come into full force and effect.
2. The City will take into consideration the adequacy of training prior to issuing discipline or depreciated performance evaluations to employees who have been determined to be in non-compliance to the City's IPP.
3. The City agrees to identify, at the beginning of each department's IPP the individuals who are ultimately responsible for the administration of the plan.
4. The City agrees to incorporate representatives of the NBEL on the IPP safety committees in all departments where the NBEL has representation obligations.



5. The City agrees to include representatives from the NBEL in a meet and consult role, as part of the process which will be employed for the incorporation of changes in the IPP.

L. Safety Shoes

The present policy and practices regarding the supply and maintenance of safety shoes shall remain in place except for the following changes as they apply to the accelerated wear provisions.

If the soles of the safety shoes wear out within a year, the employee should present the shoes to his/her supervisor. If the supervisor agrees that the soles are worn out, he will authorize the employee to purchase a new pair of shoes at City expense. If the supervisor judges that the uppers are in good condition, he will authorize the employee to have the shoes resoled at City expense.

M. Uniforms

It shall be understood by the NBEL and its members that employees who report for work either "out of uniform" or in "dirty" or "otherwise substandard" uniforms will be sent home without additional prior notice and without pay. Such incidents shall further be documented and regularly repeated violations of the uniform standards will subject the employee to progressive discipline up to and including dismissal for negligence and/or misconduct.

Employees represented by the NBEL will be permitted to wear specified and approved shorts as part of the City approved optional uniform. The shorts must be dark blue in color, the inseam must be no less than 4 and 1/2 inches after shrinkage. They must be worn in combination with the standard City uniform shirt of the optional (golf style) City uniform shirt, and they must be worn with either white or blue socks. The optional uniform shall be considered proper and acceptable year round. Department Directors may make individual exceptions to this optional uniform agreement through the establishment of Departmental Policy in the interest of reasonable safety considerations.

N. Voluntary Training Program

The Department shall, when the need for additional or replacement individuals possessing a commercial driver's license is anticipated, establish a voluntary training program that will allow employees to qualify for the license.

O. In-Service Supervisory and Safety Training

The City will continue its program of providing supervisory and motivational training for Supervisors and Crew Chiefs. The program, will if possible, be

expanded to include non-supervisory personnel wherever practical. The equipment operator training program will continue on an as needed basis. Course subject matter may include, but not limited to: interpersonal working relationships, public service, performance evaluation techniques, employee counseling and discipline, harassment avoidance, defensive driving, substance abuse, skills and safety methods and procedures, and wellness.

P. Clean-Up Time

When necessary, each employee shall be permitted up to fifteen (15) minutes of paid City time at the end of each work shift to perform work related job site and personal clean-up and to put away tools and equipment. The amount of clean-up time shall be limited to the actual needs of the employee.

Q. Rest Periods

Employees shall be allowed rest period of fifteen (15) minutes during each four (4) consecutive hours of work.

Such rest periods shall be scheduled in accordance with the requirements of the Department, but in no case shall rest periods be scheduled within one (1) hours of the beginning of the ending of a work shift or lunch period. The City may designate the location or locations at which rest periods may be taken.

Rest periods shall be considered hours worked and employees may be required to perform duties, if necessary.

R. Service Awards

For the purposes of determining service awards, if an employee has been employed by the City on more than one occasion, non-consecutive time will be considered as part of total service. Prior to system implementation, an employee is required to individually notify the awards committee of all of the service time.

S. Employee Handbook

There will be a consolidation of documents to be given to each employee. This consolidation will be comprised of the Employee Policy Manual, related Departmental Rules and Regulations; Employee/Employer Resolutions and a copy of this Memorandum of Understanding. More information may be included.

T. Direct Deposit

All newly hired employees shall participate in the payroll direct deposit system.

U. Salary on Reclassification

The City will amend its Employee Policy Manual to provide for a minimum salary increase of five (5%) percent upon reclassification (not to exceed the maximum of the new salary range).

V. Duration

*The terms of this MOU are to remain in full force and effect from the first pay period of fiscal year 2010-2011 through the last pay period of fiscal year 2011-2012. Proposals for the succeeding MOU must be submitted on or before March 1, 2012 in accordance with Section 13, Timetable for Submission of Requests of the Employer-Employee Relations Resolution. Upon adoption of a resolution approving this MOU and the terms hereof by the City Council of the City of Newport Beach, this MOU shall be in force and effect as of the first day of the first pay period of fiscal year 2010-2011.*

W. Separability

Should any part of this MOU or any provision herein contained be rendered or declared invalid, by reason of any existing or subsequently enacted Legislation, or by decree of a Court of competent jurisdiction, such invalidation of such part or portion of this MOU shall not invalidate the remaining portion hereto, and same shall remain in full force and effect; provided, however, that should provisions of this MOU relating to any schedule adjustment be declared invalid, City agrees to provide alternative benefits agreeable to NBEL, to employees, which will cause such employees to receive the same amount of money as they would have received had such provision not been declared invalid.

**Signatures are on the next page.**

Executed this 14<sup>th</sup> day of December, 2010:

NEWPORT BEACH EMPLOYEES LEAGUE

By: [Signature]  
Tim Morell, President

By: [Signature]  
Chris Auger, Vice President

By: [Signature]  
Landin Miller, Secretary

By: [Signature]  
Darren Foster, Treasurer

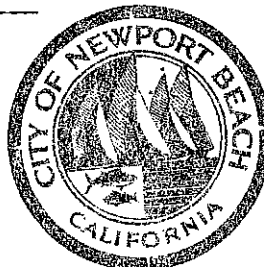
By: [Signature]  
John Partridge, Member-At-Large

By: [Signature]  
Larry Lykins, Representative

CITY OF NEWPORT BEACH

By: [Signature]  
Mayor

ATTEST:  
[Signature]  
City Clerk



APPROVED AS TO FORM:  
[Signature]  
David Hunt, City Attorney

## **EXHIBIT A**

### **CLASSIFICATIONS COVERED UNDER THE NEWPORT BEACH EMPLOYEES LEAGUE BARGAINING UNIT**

Auto Paint & Body Mechanic  
Automotive Parts Buyer  
Automotive Stock Clerk  
Beach Maintenance Supervisor  
Concrete Finisher  
Concrete Maintenance Crew Chief  
Concrete Supervisor  
Electrician  
Electrical Services Crew Chief  
Electrical Services Supervisor  
Equipment Mechanic I  
Equipment Mechanic II  
Equipment Mechanic, Senior  
Equipment Maintenance Supervisor  
Equipment Operator I  
Equipment Operator II  
Facilities Maintenance Technician  
Facilities Maintenance Worker I  
Facilities Maintenance Worker II  
Facilities Maintenance Crew Chief  
Facilities Maintenance Supervisor  
Groundswoker I  
Groundswoker II  
Irrigation Specialist  
Maintenance Worker I  
Maintenance Worker II  
Park Maintenance Crew Chief  
Park Maintenance Supervisor  
Parking Lot Supervisor  
Parking Meter Serviceworker  
Parking Meter Supervisor  
Pest Control Technician  
Refuse Supervisor  
Refuse Worker I  
Refuse Worker II  
Senior Services Van Driver  
Storm Drain/Street Sweeping Crew Chief  
Storm Drain/Street Sweeping Supervisor

Street Maintenance Crew Chief  
Street Maintenance Supervisor  
Traffic Painter  
Transfer Station Crew Chief  
Transfer Station Operator  
Utilities Crew Chief  
Utilities Equipment Specialist  
Utilities SCADA Coordinator  
Utilities SCADA Technician  
Utilities Specialist  
Utilities Specialist, Sr.  
Utilities Supervisor  
Utilities Video Technician  
Water Production Operator  
Water Production Supervisor  
Water Quality Coordinator